

# **EXHIBIT “D”**

UNITED STATES DISTRICT COURT  
~~NORTHERN DISTRICT OF CALIFORNIA~~  
SAN JOSE FACILITY

ELIEL PAULINO,

Plaintiff,

vs.

No. CV 16-02642-NC

MARCO CRUZ, INDIVIDUALLY AND AS AN  
OFFICER OF THE SAN JOSE POLICE  
DEPARTMENT, GERARDO SILVA,  
INDIVIDUALLY AND AS AN OFFICER OF  
THE SAN JOSE POLICE DEPARTMENT,  
GURBAKSH SOHAL, INDIVIDUALLY AND  
AS AN OFFICER OF THE SAN JOSE  
POLICE DEPARTMENT, AND DOES 1 -  
10, INCLUSIVE,  
Defendants.

DEPOSITION OF JUAN RAMIREZ

Date: Tuesday, November 22, 2016  
Time: 10:12 a.m.  
Location: LAW OFFICE OF MORALES & LEANOS  
75 East Santa Clara Street  
Suite 250  
San Jose, CA 95113

Reported by: TERRY deDIEGO  
Certified Shorthand Reporter

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1 interpreter, would you spell that first part, then.

2 THE INTERPRETER: C-o-r-b-y.

3 MR. LEANOS: Okay.

4 Q. (By Mr. Leanos): Does that seem to be the  
5 correct spelling, Mr. Ramirez?

6 A. Yes.

7 Q. Okay. And what do you do?

8 What is your job?

9 A. I maintain the swimming pools, clean,  
10 commercial houses and apartments.

11 Q. And how long have you been doing that?

12 A. Thirteen years.

13 Q. And what is your current home address?

14 A. 3137 Cadillac, like the car, Apartment Number  
15 20, San Jose, California 95117.

16 Q. And who do you live there with?

17 A. My wife, my family.

18 Q. And how long have you lived there  
19 approximately?

20 A. Twenty-three months.

21 Q. Maybe a little over two years or close to two  
22 years?

23 A. Less, yes. In December, it will be two years.

24 Q. Okay. Did you live in that apartment on  
25 August 16th, 2015?

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1 A. Yes.

2 Q. Okay. Now, on August 16th, 2015, did you know  
3 a person named Eliel Paulino who lives in the same  
4 apartment building?

5 A. Yes.

6 Q. And were you friends with him?

7 A. Neighbors.

8 Q. Do you ever social -- prior to August 16th,  
9 2015, did you ever socialize with Eliel Paulino?

10 A. Just greet him and good morning, good day.

11 Q. Okay. Now, are -- do you know Eliel Paulino's  
12 father?

13 A. Yes.

14 Q. Okay. Are you friends with him or are you just  
15 neighbors?

16 A. Just neighbors.

17 Q. And I believe Eliel has other roommates.

18 Are you friends with them or are you just  
19 neighbors?

20 A. Neighbors.

21 Q. Now, the apartment complex you live in, does it  
22 have a name?

23 A. Yes.

24 Q. And what is the name?

25 A. Pries Apartments.

17

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1 or a two-bedroom?

2 A. One.

3 Q. Okay. And do you sleep in the bedroom?

4 A. Yes.

5 Q. And if you look -- do you have a window in your  
6 bedroom?

7 A. Yes.

8 Q. Okay. And if you look out your window from  
9 your bedroom, what are you able to see?

10 A. The complete parking lot.

11 Q. Okay. Is this the parking lot located behind  
12 your apartment complex?

13 A. Yes.

14 Q. Okay. And when you look out your window, do  
15 you have an unobstructed view of the parking lot?

16 A. Yes.

17 Q. On August 16th, 2015, at approximately  
18 2:00 a.m., did anything unusual occur?

19 MS. CHOW: Objection. Vague.

20 Q. (By Mr. Leanos): You can answer the question.

21 A. Yes. I was sleeping, and a patrol car siren --  
22 I heard a patrol car siren sound, and they had the  
23 lights on. And they were pointing in every direction,  
24 and they were pointing in my direction -- in my windows'  
25 direction. And -- because they turn around, and the

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1 light was going into my window.

2 Q. Now, is there a particular noise or -- a  
3 particular noise that -- that woke you up?

4 A. The cars' sirens and the lights.

5 Q. Okay. In addition to the -- the police car and  
6 the lights, did you see any other vehicles?

7 A. Before that, no.

8 Q. Okay. Did you ever see a truck pull into the  
9 parking lot?

10 A. Looking at the videos, yes.

11 Q. Okay. Right now, I just want to ask you about  
12 what you personally saw with your own eyes.

13 A. Okay.

14 Q. And then later on, I am going to ask you about  
15 the video.

16 So to make sure I understand you, the first  
17 thing that you saw was the police vehicle?

18 A. Yes.

19 Q. Okay. And where did the police vehicle go?  
20 Where did it park?

21 A. It parked in front of the window of Eliel's  
22 apartment.

23 Q. Okay. Now, as you were seeing this, were you  
24 still in bed? Were you standing up?

25 How were you positioned?

20

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1 A. I was on my bed kneeling, looking downstairs.

2 Q. Okay. And as you kneel on your bed, are you  
3 able to see the parking lot?

4 A. Completely.

5 Q. Okay. And if you can just approximate, do you  
6 know how far the police car was from where you were,  
7 where you were able to see it?

8 A. Approximately in feet, about 20 feet.

9 Q. Okay. And was that like in front of you and  
10 below you?

11 A. It was in front of me and to a side.

12 Q. Okay. Did you have a clear view?

13 A. Yes.

14 Q. Okay. Now, after the police car stopped,  
15 did -- what did you observe next?

16 A. The thing that I saw after that was that Eliel  
17 wanted to get out, and the officer told him not to do --  
18 not to get out. And then Eliel was quiet. And an  
19 officer went to check out in front of the parking lot.

20 Q. Now, in addition to seeing the officers in the  
21 police car, were you able to also hear them?

22 A. I had the window a fourth open.

23 Q. Okay. So were you able to hear the police?

24 A. Yes.

25 Q. Okay. And when the person tried to originally

21

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1 get out of the vehicle, did you know it was Eliel?

2 A. Yes.

3 Q. Okay. How did you recognize him?

4 A. Because the way he looks, small with short  
5 hair, and nobody else drives his car except him --

6 Q. Okay.

7 A. -- from what I have seen.

8 Q. Okay. And you recognized his -- his car?

9 A. Yes.

10 Q. It is actually a truck or a car?

11 A. It is an SUV.

12 Q. Okay. Now, you said earlier that a police  
13 officer told Eliel to stay in the vehicle; correct?

14 A. Yes.

15 Q. And do you know if that officer gave that order  
16 in Spanish or English?

17 A. In both languages.

18 Q. Okay. Was it the same officer or was it  
19 different officers giving the order?

20 A. The same one.

21 Q. Okay. So there was one officer giving Eliel  
22 orders, and then he stayed in his car?

23 A. Yes. Correct.

24 Q. Okay. And you said, I believe, that at this  
25 point were there two officers present?

22



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1 A. Yes.

2 Q. And one was looking around the parking lot and  
3 the other one was watching Eliel?

4 A. Yes. One was giving Eliel orders, and the  
5 other one was checking out in front.

6 Q. Okay. Now, Mr. Ramirez, do you know if -- can  
7 you describe the one who was giving the verbal orders to  
8 Eliel.

9 Can you physically describe him.

10 A. It was a slim agent, bald or without hair,  
11 height maybe five-nine or six. And the other officer  
12 was from Asian descent, and the height approximately  
13 shorter than the other officer, around five-seven.

14 Q. Do you remember anything about the second  
15 officer's hair?

16 A. Short hair, uh, combed back, black. And  
17 slimmer than the other one.

18 Q. Okay. After the officer gave the order to stay  
19 in the vehicle, did Eliel stay there?

20 A. Yes.

21 Q. Okay. Now, at some point, did you see Eliel  
22 get out of his vehicle?

23 A. When he -- he was ordered to do so.

24 Q. Okay. And was he ordered in Spanish or  
25 English?

23

Juan Ramirez (November 22, 2016)

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1 A. In Spanish.

2 Q. Okay. And when the officer gave Eliel the  
3 order, did Eliel comply with his request?

4 A. He went out towards the officers.

5 Q. Okay. Were you able to see Eliel as he walked  
6 toward the officers?

7 A. Yes.

8 Q. Okay. And is it dark back there or were you  
9 able to see -- how was the lighting?

10 A. There were lights on -- from the patrol car,  
11 all of them, and they had lamps in their hands.

12 In the parking lot, there is no light, but  
13 there was enough light to see it clearly.

14 Q. Okay. When Eliel exited his car and walked  
15 towards the police, did he look angry?

16 A. No.

17 Q. Did he look agitated?

18 A. No. I just saw a person walking towards an  
19 officer -- towards some officers.

20 Q. Okay. Now, after Eliel walked to the officers,  
21 what did you observe next?

22 A. The officer that spoke Spanish approached him  
23 and told him that what he was doing was not okay. And  
24 the other officer told him that he was -- that he had  
25 beers, beer cans, and all of it in Spanish. And he said

24

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1 Eliel. Eliel was quiet, and he just said okay.

2 Q. Did you hear the officers ask Eliel for his  
3 name or identification?

4 A. Yes.

5 Q. Okay. Did Eliel tell them his name and give  
6 them an identification, from what you could observe?

7 THE INTERPRETER: The interpreter needs  
8 clarification.

9 THE WITNESS: Eliel told the officer where he  
10 lived, and he showed it -- he pointed at it with his  
11 hand.

12 MR. LEANOS: Okay.

13 Q. (By Mr. Leanos): And was Eliel standing close  
14 to his apartment at this point?

15 A. About -- from the window of the apartment, yes,  
16 about seven feet.

17 Q. Okay. From what you were able to hear, did it  
18 appear that Eliel was answering the police officers  
19 questions?

20 A. Yes.

21 Q. From what you observed when the police and  
22 Eliel were having this discussion, was Eliel being  
23 cooperative?

24 MS. CHOW: Objection. Vague.

25 THE WITNESS: Yes.

25

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1 MR. LEANOS: Okay.

2 Q. (By Mr. Leanos): So was that a "yes"?

3 A. Yes.

4 Q. Now, at some point after the police and Eliel  
5 started speaking, did you see the police officers search  
6 Eliel?

7 A. Yes. Eliel got there, and then the officer  
8 told him, get closer and turn around. Eliel put his  
9 hands towards the back. They took the -- they took his  
10 wallet, and during that time Eliel had just -- his hands  
11 in the back like I have them (indicating). And the  
12 officer told him, you don't need to have the hands like  
13 that.

14 Q. Did you actually see -- strike that.

15 At any point when you were watching the police  
16 with Eliel, did you actually see any officers search  
17 Eliel's waist area?

18 A. Yes, the one that spoke Spanish.

19 Q. Okay. And when Eliel was being searched, did  
20 Eliel appear to be cooperative?

21 MS. CHOW: Objection. Vague.

22 THE WITNESS: Yes.

23 Q. (By Mr. Leanos): Now, after Eliel was searched  
24 and he turned over his I.D. to the police, at some point  
25 did a third officer arrive?

26

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1 A. Yes.

2 Q. Okay. Can you --

3 A. Taller than them and more robust.

4 Q. Okay. And when that first officer -- when that  
5 third officer first arrived, did you see what he did?

6 A. He went straight to search the back with a  
7 lamp.

8 Q. Okay. And when you say "lamp," are we talking  
9 about a flashlight?

10 A. Uh-huh. Yes.

11 Q. Okay. Now, from when they first stopped  
12 Eliel's vehicle to when the third officer arrived on  
13 scene, was Eliel coop- -- based on what you observed,  
14 was Eliel cooperating with the police?

15 A. Yes.

16 MS. CHOW: Objection. Vague. Calls for  
17 speculation.

18 THE WITNESS: Yes.

19 MR. LEANOS: Okay.

20 Q. (By Mr. Leanos): And did you have a clear view  
21 from your bedroom of all the -- all these observations,  
22 to make all these observations?

23 A. Yes.

24 Q. Now, at some point was -- was Eliel moved  
25 towards the police car?

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1 before Eliel was moved to the police car and just so you  
2 understand, Eliel was talking to the police, he turned  
3 over his I.D., and then he was telling the police where  
4 he lived.

5 While this was going on, was Eliel's father  
6 saying anything?

7 A. Yes, that he wasn't doing anything wrong. And  
8 the police was answering him that he was doing something  
9 wrong and that he was going to go to prison.

10 Q. Okay. Now, at that point -- at that point, was  
11 the -- Eliel's father saying anything else?

12 A. Yes, but I -- I wasn't able to hear, because he  
13 went towards the inside.

14 Q. Okay. Now, you said at some point then Eliel  
15 moved to the front of the patrol car, and then I think  
16 an Asian officer went with him towards the patrol car?

17 A. Yes. When the, um, officer that was speaking  
18 in Spanish told him to wait because he was arguing with  
19 the father, that he wasn't doing anything wrong, the  
20 officer said in Spanish, stay here. And the Asian  
21 officer was to his left. Just listening.

22 Q. Okay. Now, as Eliel was with the Asian officer  
23 near the patrol car, what part of the patrol car were  
24 they near?

25 A. Eliel was towards the fender on the right side

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1 of the patrol car.

2 Q. Okay.

3 A. And the Asian officer was in front of the  
4 patrol car on the same side.

5 Q. Okay. Now, can you estimate about how far the  
6 Asian officer was from Eliel when Eliel was positioned  
7 in the front part of the patrol vehicle?

8 A. A very short distance. About this length  
9 (indicating).

10 Q. I'm sorry. About what length?

11 A. About three feet. This distance (indicating).

12 Q. So they were about three feet apart?

13 A. Like this (indicating), yes, approximately.

14 MR. LEANOS: Okay. And may the record reflect  
15 that the witness extended his arm towards the  
16 interpreter, it appears to be about three feet.

17 Is that fair?

18 MS. CHOW: Yes.

19 MR. LEANOS: Okay.

20 THE WITNESS: Yes, approximately three feet.

21 MR. LEANOS: Okay.

22 Q. (By Mr. Leanos): Now, the Asian officer was  
23 near Eliel, did you see where the Spanish-speaking  
24 officer was at that point?

25 A. He was arguing with Eliel's father about the

30

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1 THE WITNESS: Correct.

2 MR. LEANOS: Okay.

3 Q. (By Mr. Leanos): We are at about 55 minutes.  
4 Would this be a good time to take a quick  
5 break?

6 A. Yes.

7 MR. LEANOS: Okay. Why don't we go ahead and  
8 go off the record.

9 THE VIDEOGRAPHER: We are going off the record.  
10 The time on the screen is 11:09 a.m.

11 (Recess taken.)

12 THE VIDEOGRAPHER: We are back on the record.  
13 The time on the screen is 11:27.

14 MR. LEANOS: Okay.

15 THE WITNESS: Okay.

16 Q. (By Mr. Leanos): Mr. Ramirez, I want to ask  
17 you now about when the Asian officer was standing about  
18 three feet away from Eliel near the front of the  
19 vehicle, the patrol vehicle. Okay?

20 Okay. As Eliel was sitting -- or how was he  
21 standing next to the vehicle; do you recall?

22 A. He had crossed arms. No. It was crossed legs  
23 and his hands in his pockets.

24 Q. Okay. Could you tell if he was leaning up  
25 against the vehicle or was he standing?

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1           A. He was leaning towards the vehicle, on the  
2 vehicle.

3           Q. Okay.

4           A. In a comfortable position.

5           Q. Okay. And up to that point, did it appear like  
6 Eliel was cooperating with the police?

7           MS. CHOW: Objection. Vague.

8           THE WITNESS: Yes.

9           MR. LEANOS: Okay.

10          Q. (By Mr. Leanos): Was Eliel -- did he appear  
11 angry?

12          A. No.

13          Q. Did he appear agitated?

14          A. No.

15          Q. Okay. Was he complying with the police  
16 officers?

17          A. Yes.

18          Q. Okay. Now, at some point as Eliel was standing  
19 there leaning on the patrol car, did something unusual  
20 occur?

21          MS. CHOW: Objection. Vague.

22          THE WITNESS: Well, Eliel was giving the keys  
23 to his father to close the truck. And the Asian officer  
24 told him, be quiet, in English. He told him, shut up.

25          MR. LEANOS: Okay.

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1 Q. (By Mr. Leanos): Now, you heard the Asian  
2 officer say something to Eliel?

3 A. No. Just to shut up.

4 Q. Okay. That's what I am asking about.

5 So you heard shut up?

6 A. Yes.

7 Q. More than one time?

8 A. Yes.

9 Q. Okay. When he -- how many times did you hear  
10 shut up?

11 A. As Eliel was speaking, the officer was telling  
12 him to shut up. And the phrase where he said here are  
13 the keys, dad, close the truck, the officer kept on  
14 telling him to shut up.

15 Q. Okay. Do you know how many times the officer  
16 told Eliel to shut up?

17 A. Probably more than -- probably between three  
18 and five.

19 Q. Okay. When the officer told Eliel to shut up,  
20 did Eliel say anything to the officer?

21 A. No.

22 Q. Okay. And did you actually see Eliel try to  
23 give the keys to his father or was he just telling him  
24 to lock his truck?

25 A. He was just telling him to close the truck.

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1 Q. Okay.

2 A. Because Eliel was only talking to the one that  
3 was speaking Spanish. Because he was the one giving him  
4 all the orders.

5 Q. Okay.

6 A. Since the beginning.

7 Q. Okay. So after the officer -- as the officer  
8 was telling Eliel to shut up, what was -- did he do  
9 anything else with his body?

10 A. Not yet. He was just looking at him with a  
11 look like he was reprimanding him.

12 Q. Who was reprimanding who?

13 A. The officer to Eliel.

14 Q. Okay.

15 A. You could see that on his posture, it -- he  
16 changed his posture when he told him to shut up.

17 Q. Okay. Who changed his posture?

18 A. The officer.

19 Q. Okay. And what did the officer do next?

20 A. He grabbed his left hand, and with his right  
21 hands the officer grabbed the handcuffs. But at the  
22 same time, Eliel was in a bad position there standing,  
23 because his legs were crossed. He -- the officer wanted  
24 to grab his hands and Eliel lost his balance. And he  
25 slid towards the patrol car hitting or breaking the

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1 rearview mirror.

2 And the Spanish-speaking officers -- officer  
3 was not saying anything.

4 Q. Okay. Did the Asian officer who put his hands  
5 on Eliel, did he tell Eliel he was going to arrest him?

6 A. No.

7 Q. Okay. And as Eliel lost his balance, what did  
8 the Asian officer do?

9 A. He wanted to put the handcuff on his hand,  
10 but -- but since Eliel was about to fall, they sort of  
11 struggled while he was falling. And at that time, the  
12 Spanish-speaking officer got there and hit him directly  
13 in the stomach.

14 And Eliel bent over and the Asian one pulled  
15 him to the ground with the knees on the -- with the  
16 knees on the back.

17 Q. Okay.

18 A. And the Spanish officer hit him again twice on  
19 the -- on the legs.

20 Q. Okay. Did he hit him with his hands or did he  
21 hit him with something else?

22 A. With the stick.

23 Q. Okay. That's the Spanish-speaking officer?

24 A. Yes.

25 Q. So I want to make sure I understand you.

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1           The Spanish officer -- the Spanish-speaking  
2       officer hit Eliel in his stomach with the baton when  
3       Eliel was falling into the patrol vehicle, and then  
4       after Eliel went to the ground, he struck him twice on  
5       the legs?

6           A.   Yes.

7           Q.   Okay. Now I want to ask you this, at any  
8       point -- or did you see how Eliel got knocked to the  
9       ground?

10          A.   Yes.

11               MS. CHOW: Objection. Assumes facts not in  
12       evidence.

13               THE WITNESS: Yes.

14          Q.   (By Mr. Leanos): How did Eliel get knocked to  
15       the ground?

16          A.   It was when the Spanish-speaking agent hit  
17       Eliel in the stomach, and Eliel bent over. He  
18       completely lost the balance, and the Asian officer threw  
19       him on the ground and got on top of him while the other  
20       one hit him twice.

21          Q.   Okay. Let me ask you this, before Eliel was  
22       thrown to the ground, did it appear that Eliel was  
23       trying to fight with the police?

24          A.   He just grabbed his stomach with his hands  
25       because of the pain.

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1 Q. But prior to being thrown to the ground, did it  
2 appear Eliel was trying to fight with the police?

3 A. No.

4 Q. Prior to the Asian officer putting his hands on  
5 Eliel, did it appear that Eliel was trying to resist  
6 arrest?

7 MS. CHOW: Objection. Calls for speculation.

8 THE WITNESS: No. No.

9 Q. (By Mr. Leanos): As you observed Eliel getting  
10 thrown to the ground, did you have a clear unobstructed  
11 view?

12 A. It was -- it was darker, but I could still see  
13 it.

14 Q. Okay. Was it a clear view?

15 A. Yes.

16 MS. CHOW: Objection. Vague.

17 MR. LEANOS: Okay.

18 Q. (By Mr. Leanos): And at any point before Eliel  
19 got thrown to the ground, did it appear he was trying to  
20 run away from the officers?

21 A. No.

22 MS. CHOW: Objection. Calls for speculation.

23 THE WITNESS: No.

24 Q. (By Mr. Leanos): When Eliel landed on the  
25 ground, could you see how he landed?

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1 A. Facedown.

2 Q. Okay. Before Eliel was thrown to the ground,  
3 did you hear Eliel threaten the officers in any way?

4 A. No.

5 Q. Okay. Once Eliel went to the ground, where was  
6 he located?

7 THE INTERPRETER: The interpreter needs that  
8 again. Once Eliel was on the ground?

9 MR. LEANOS: Yes. Let me strike that and  
10 rephrase the question.

11 Q. (By Mr. Leanos): After Eliel was thrown to the  
12 ground, where was he located in relation to the police  
13 vehicle?

14 A. In front of the bumper.

15 Q. Okay. And he was facedown?

16 A. Yes.

17 Q. Okay. And what did you observe next?

18 A. When the Span- -- Hispanic officer hit him, the  
19 Asian was on top of him, the third one arrived and put  
20 his knee on his back and hit him very hard.

21 Q. Okay. Did you see what the third officer was  
22 hitting Eliel with?

23 A. With the baton.

24 Q. Okay. When -- did you have a clear view of the  
25 officer hitting Eliel with the baton?

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1 A. Yes.

2 MS. CHOW: Objection. Vague.

3 MR. LEANOS: Okay.

4 Q. (By Mr. Leanos): Now, you said he was hitting  
5 him hard.

6 How come -- what -- what made you to believe  
7 that the baton hits were hard?

8 A. Because you could see it as he was lifting it,  
9 clearly (indicating).

10 Q. Okay. And the record should reflect the  
11 witness raised his right hand and arm above his head and  
12 then put it back down on his lap.

13 At the time that -- that you saw that, at the  
14 time you observed that, did you see how many times the  
15 officer struck Eliel with the baton?

16 MS. CHOW: Objection. Objection. Vague.

17 THE WITNESS: He hit him approximately 16 to 18  
18 times.

19 MR. LEANOS: Okay.

20 Q. (By Mr. Leanos): And that's what you observed?

21 A. Yes. But at no time were they talking to  
22 Eliel.

23 Q. Okay. I will ask you about that. But we need  
24 to -- I wasn't there, so I am trying to understand  
25 exactly what you saw. And understand there is a video,

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1 and we will talk about that after.

2 Your testimony is you believe that the officer  
3 struck Eliel about 16 to 18 times?

4 A. Yes.

5 Q. Okay. Now, at some point -- at any point when  
6 Eliel was being hit with the baton, did it appear that  
7 Eliel was fighting with the police?

8 A. No.

9 MS. CHOW: Objection. Vague.

10 Q. (By Mr. Leanos): As Eliel was being hit with  
11 the baton, how far away were you from the officers at  
12 that point?

13 A. Approximately 16 to eight feet -- 18 feet,  
14 because they were more closer, near my window.

15 Q. Okay. As the officers were striking Eliel with  
16 the baton, could you hear whether or not they were  
17 giving him orders?

18 A. They were saying things, but you -- I couldn't  
19 hear them clearly.

20 Q. Okay. Were they saying things in Spanish or  
21 English?

22 A. Just in English.

23 Q. Okay. And as Eliel was on the ground facedown,  
24 did you see where his arms were?

25 A. He had one arm behind him because the Asian one

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1 was behind him. And where they were hitting him was on  
2 the arm, to get it out.

3 Q. Okay. Did it look like Eliel was trying to  
4 resist arrest as he was lying facedown?

5 MS. CHOW: Objection. Vague.

6 THE WITNESS: No.

7 MR. LEANOS: Okay.

8 Q. (By Mr. Leanos): What was Eliel doing as he  
9 was being hit?

10 A. He was just saying, no problem, no problem.

11 Q. You could hear Eliel saying "no problem" to the  
12 police?

13 A. He was yelling it.

14 Q. Okay. Did it sound like Eliel was in pain?

15 A. Yes.

16 MS. CHOW: Objection. Calls for speculation.

17 Q. (By Mr. Leanos): Aside from telling the  
18 officers no problem, no problem, did he -- did Eliel say  
19 anything else?

20 A. He was --

21 THE INTERPRETER: The interpreter needs that  
22 again.

23 THE WITNESS: He was -- he seemed to be  
24 complaining about pain saying things like aye --

25 Q. (By Mr. Leanos): As he was being hit?

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1 A. Yes.

2 Q. Okay. Was Eliel being hit by the batons as he  
3 was saying "no problem"?

4 A. Yes.

5 Q. Okay. Did it appear that Eliel was trying to  
6 reach for a weapon that was located in his waist area as  
7 he was facedown?

8 MS. CHOW: Objection. Calls for speculation.

9 THE WITNESS: No.

10 MR. LEANOS: Okay.

11 Q. (By Mr. Leanos): Did it appear that Eliel was  
12 trying to fight with the police officers as he was  
13 facedown on the ground?

14 A. No.

15 Q. When you saw -- I believe you said the Asian  
16 officer was on Eliel's back; correct?

17 A. Correct, yes.

18 Q. And he had Eliel's left arm?

19 A. Yes.

20 Q. And the other officer was on Eliel's back?

21 A. Yes.

22 Q. And Eliel's arm was under his body, his right  
23 arm?

24 A. Yes.

25 Q. Could Eliel give his arm, his right arm, to the

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1 police?

2 A. No.

3 MS. CHOW: Objection. Calls for speculation.

4 THE WITNESS: No. No, even if he wanted to, he  
5 would -- he couldn't, because he had the heavier one on  
6 the right arm.

7 MR. LEANOS: Okay.

8 Q. (By Mr. Leanos): So he was lying on top of his  
9 arm?

10 MS. CHOW: Objection. Misstates prior  
11 testimony.

12 THE WITNESS: On the back.

13 MR. LEANOS: Okay.

14 Q. (By Mr. Leanos): So his left arm -- but his  
15 right arm was under his body?

16 A. Yes.

17 Q. Okay. And both officers were on top of Eliel  
18 as he was lying facedown?

19 A. Yes.

20 Q. Okay. Could you see where the officer with the  
21 baton was hitting Eliel?

22 MS. CHOW: Objection. Vague.

23 THE WITNESS: In the arm.

24 MR. LEANOS: Okay.

25 Q. (By Mr. Leanos): Could you tell if it was the

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1 right arm or the left arm?

2 A. The right one.

3 Q. Okay. Could you hear the baton strikes on  
4 Eliel's arm?

5 A. Yes.

6 Q. Okay. Now, Mr. Ramirez, you took a video -- or  
7 strike that.

8 Mr. Ramirez, you had a video camera in the back  
9 of your apartment; correct?

10 A. Correct.

11 Q. Okay. And the incident that you are testifying  
12 today was actually captured on your video camera?

13 A. Yes.

14 Q. Okay.

15 MR. LEANOS: Now, at this time, I think we can  
16 go off the record, and I would like to play the video  
17 for Mr. Ramirez. We have two videos, but what I would  
18 like to do is just play the short video for now, the one  
19 and a half minute video, and lay the foundation, have  
20 him observe the video. Then we will come back to the  
21 13-minute video. So we can go off the record.

22 What I would like during this part is maybe  
23 have the cameraman just stay on the video or stay with  
24 the deponent.

25 THE VIDEOGRAPHER: Okay.

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1 A. Yes.

2 Q. And is that video a fair and accurate depiction  
3 of the events that you witnessed on August 15th, 20 --  
4 or August 16th, 2015?

5 A. Yes.

6 Q. Okay.

7 MR. LEANOS: Now, what I -- I am going to want  
8 to do is show the video again, but I want you to film  
9 the video, because I want to ask him a few questions  
10 about the video.

11 THE VIDEOGRAPHER: Same one.

12 MR. LEANOS: Same one. Do you want to turn out  
13 the lights?

14 THE VIDEOGRAPHER: Not necessarily.

15 MR. LEANOS: Do it with the lights. The minute  
16 and a half.

17 THE VIDEOGRAPHER: Okay.

18 Q. (By Mr. Leanos): Mr. Ramirez, I am going to  
19 ask you to watch the video. I am going to pause it and  
20 ask you a couple of questions.

21 THE VIDEOGRAPHER: Actually, for the sake of  
22 the --

23 THE WITNESS: Okay.

24 THE VIDEOGRAPHER: -- might want to turn the  
25 lights out because the reflection on the screen. That's

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1 A. Yes.

2 MS. CHOW: Objection. Calls for speculation.

3 Q. (By Mr. Leanos): And he was saying something  
4 like aye, or something to that effect?

5 A. Yes. Yes. He was just complaining about pain.

6 Q. Okay. Now, while the two officers are  
7 taking -- or strike that.

8 As Eliel is on the ground and being hit with  
9 the baton, do you recall what the third officer was  
10 doing, the guy who was standing with his back to us on  
11 the video?

12 A. He was just hitting him.

13 Q. Okay. Finish this up.

14 (Watching video.)

15 MR. LEANOS: Okay. Turn it off. We don't need  
16 the video. We can turn the light back on and some  
17 follow-up questions.

18 Q. (By Mr. Leanos): Now, Mr. Ramirez, so you took  
19 a video of this incident.

20 What did you do with the video?

21 A. I put it on the Internet.

22 Q. Okay. Who actually put it on the Internet?

23 A. Between my daughter and myself.

24 Q. Okay. Do you know why your daughter or you put  
25 that on the Internet?

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1 A. Because we are against police brutality.

2 Q. Okay. Did it appear that the video that your  
3 camera took showed the police officers being brutal  
4 towards Mr. Paulino?

5 MS. CHOW: Objection. Argumentative.

6 THE WITNESS: Yes.

7 Q. (By Mr. Leanos): At some point after the video  
8 was taken, did you give a copy to Mr. Paulino?

9 A. Yes.

10 Q. Okay. Why did you give him a copy of that  
11 video?

12 A. Because it had taken a police brutality in the  
13 area where I live, so that he could have proof of what  
14 they had done.

15 Q. What the police had done?

16 A. Yes.

17 Q. On the night of the incident after this  
18 occurred, were you interviewed by the police?

19 A. No.

20 Q. Okay. Do you know why you weren't interviewed  
21 by the police?

22 A. I don't know.

23 Q. At any point when Eliel was on the ground and  
24 he was being hit with the baton, did the officers ask  
25 for his arm?



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1 A. No.

2 Q. Did you see eventually how the police were able  
3 to get Eliel's arm from under his body?

4 A. I didn't see that much, because the other  
5 officer was blocking the scene, obstructing the view.

6 Q. Now, you have stated that you put the video on  
7 YouTube to document the brutality by the police?

8 A. Yes.

9 Q. When you were observing the police hitting  
10 Mr. Paulino with the batons, how did that make you feel?

11 A. I felt bad, because the police are there to  
12 take care of us, not to be aggressive with us or assault  
13 us.

14 Q. Based on what you observed, did Mr. Paulino do  
15 anything that justifies what the police officers did to  
16 him?

17 MS. CHOW: Objection. Calls for speculation.

18 THE WITNESS: No.

19 Q. (By Mr. Leanos): At any point when Mr. Paulino  
20 was on the ground, did you -- did it appear like he was  
21 trying to hide his arm from the police?

22 A. No.

23 Q. Now, after the incident, were you ever  
24 interviewed by the San Jose Police Department?

25 A. Yes.